

16679

RECORDATION #3 FILED 1425

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INTERSTATE COMMERCE COMMISSION

DEWEY, BALLANTINE, BUSHBY, PALMER & WOOD

140 BROADWAY

NEW YORK 10005

1775 PENNSYLVANIA AVENUE, N W
WASHINGTON, D C 20006
TELEPHONE (202) 862-1000
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101 PARK AVENUE, NEW YORK 10178

TELEPHONE (212) 820 1100 TELECOPIER (212) 820-1403
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CABLE ALL OFFICES DEWBALAW

WRITER'S DIRECT DIAL NUMBER
(212) 820-1555

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INTERSTATE COMMERCE COMMISSION

333 SOUTH HOPE STREET
LOS ANGELES, CALIFORNIA 90071
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9-362A030
INTERSTATE COMMERCE COMMISSION

BY HAND

NOTE: TOTAL

RECORDATION #3 16679 FILED 1425

Ms. Noreta R. McGee
Secretary
Room 2303
Interstate Commerce Commission
12th Street and
Constitution Avenue, N.W.
Washington, D.C. 20423

DEC 28 1989 -9 45 AM
INTERSTATE COMMERCE COMMISSION

Re: Financing of Rail Cars for
Oxy Petrochemicals Inc.

DEC 28 1989 -9 45 AM

RECORDATION #3 16679 FILED 1425

Dear Ms. McGee:

INTERSTATE COMMERCE COMMISSION

Enclosed herewith for filing pursuant to Section 11303 of Title 49 of the United States Code are two (2) notarized originals of each of the documents described below (the "Filed Documents"):

1. Lease Agreement dated as of December 12, 1989, a primary document which includes the related Certificate of Acceptance dated December 15, 1989.
2. Security Agreement dated as of December 12, 1989, a primary document.
3. Sales Agency Agreement dated as of December 12, 1989, a primary document.
4. Call Option Agreement dated as of December 12, 1989, a primary document.

*Supp A Certified
C. J. Thompson*

Ms. Noreta R. McGee
December 28, 1989
Page 2

5. Guaranty dated as of December 12, 1989, a primary document.

6. Loan Agreement dated as of December 12, 1989, a primary document.

7. Pledge Agreement dated December 28, 1989, a primary document.

8. Payment Undertaking Agreement dated December 28, 1989, a primary document.

The parties to the above-listed documents are as follows:

1. Lease Agreement: Oxy Petrochemicals Inc. as Lessee and ABB Credit Finans AB as Lessor.

2. Security Agreement: ABB Credit Finans AB as Grantor and Oxy Petrochemicals Inc. as Secured Party.

3. Sales Agency Agreement: ABB Credit Finans AB as Principal and Oxy Petrochemicals Inc. as Sales Agent.

4. Call Option Agreement: ABB Credit Finans AB as Call Optiongrantor and Oxy Petrochemicals Inc. as Call Optionholder.

5. Guaranty: from Occidental Petroleum Corporation as Guarantor to ABB Credit Finans AB as Lessor.

6. Loan Agreement: Algemene Bank Nederland (Sverige) AB as Lender and ABB Credit Finans AB as Borrower.

7. Pledge Agreement: Algemene Bank Nederland (Sverige) AB as Lender and ABB Credit Finans AB as Borrower.

8. Payment Undertaking Agreement: Hollandsche Bank-Unie N.V. as Bank, ABB Credit Finans AB as Lessor and Oxy Petrochemicals Inc. as Lessee.

Ms. Noreta R. McGee
December 28, 1989
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The addresses of the parties to the above-listed documents are as follows:

ABB Credit Finans AB
Nybrokajen 15
S-111 48 Stockholm
Sweden
Attention: Vice President - Administration

Occidental Petroleum Corporation
10889 Wilshire Boulevard
Los Angeles, California 90024
Attention: Vice President and Treasurer

Oxy Petrochemicals Inc.
Five Greenway Plaza
Suite 2500
Houston, Texas 77046
Attention: Controller

Algemene Bank Nederland (Sverige) AB
Box 26096
S-100 41 Stockholm
Sweden
Attention: Management

Hollandsche Bank-Unie N.V.
Coolsingel 104
P.O. Box 249
3000 AE Rotterdam
The Netherlands

The railway equipment covered by the primary documents listed above consists of 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.

If you have any questions or wish to discuss any of the Filed Documents, please telephone Eileen O'Hern (212-820-1784) or the undersigned at the number above.

A fee of \$120.00 is enclosed. Kindly stamp with the appropriate recordation number and return one of the two enclosed originals of the Filed Documents to the person delivering the same. Also, please stamp and return to the person delivering the Filed Documents the enclosed two copies

Ms. Noreta R. McGee
December 28, 1989
Page 4

of this letter to indicate receipt and recordation today of such letter and the other Filed Documents.

Short Summaries of the documents to appear in the index follow:

1. Lease Agreement between Oxy Petrochemicals Inc., Five Greenway Plaza, Suite 2500, Houston, Texas 77046 as Lessee and ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Lessor, dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.
2. Security Agreement between ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Grantor and Oxy Petrochemicals Inc., Five Greenway Plaza, Suite 2500, Houston, Texas 77046 as Secured Party, dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.
3. Sales Agency Agreement between ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Principal and Oxy Petrochemicals Inc., Five Greenway Plaza, Suite 2500, Houston, Texas 77046 as Sales Agent, dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.
4. Call Option Agreement between ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Call Optiongrantor and Oxy Petrochemicals Inc., Five Greenway Plaza, Suite 2500, Houston, Texas 77046 as Call Optionholder, dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.
5. Guaranty from Occidental Petroleum Corporation, 10889 Wilshire Boulevard, Los Angeles, California 90024 as Guarantor to ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Lessor dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.

Ms. Noreta R. McGee
December 28, 1989
Page 5

6. Loan Agreement between Algemene Bank Nederland (Sverige) AB, Box 26096, S-100 41 Stockholm, Sweden as Lender and ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Borrower, dated as of December 12, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.

7. Pledge Agreement between Algemene Bank Nederland (Sverige) AB, Box 26096, S-100 41 Stockholm, Sweden as Lender and ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Borrower, dated December 28, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.

8. Payment Undertaking Agreement among Hollandsche Bank-Unie N.V. as Bank, ABB Credit Finans AB, Nybrokajen 15, S-111 48 Stockholm, Sweden as Lessor and Oxy Petrochemicals Inc., Five Greenway Plaza, Suite 2500, Houston, Texas 77046 as Lessee, dated December 28, 1989 and covering 400 Plastics Covered Hopper Cars manufactured by Union Tank Car Company bearing identification numbers ALAX 61001-61400, inclusive.

Respectfully submitted,



Joseph M. Juhas

Enclosures

16679/C
RECORDATION NO. _____ FILED 1989

DEC 28 1989 -9 45 AM
INTERSTATE COMMERCE COMMISSION

EXECUTION COPY

CALL OPTION AGREEMENT

dated as of

December 12, 1989

between

ABB CREDIT FINANS AB,

Call Optiongrantor

and

OXY PETROCHEMICALS INC.,

Call Optionholder

RAIL CARS

Filed with the Interstate Commerce Commission pursuant to
49 U.S.C. § 11303 on December __, 1989 at __: __ .m.,
recordation number _____.

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EXHIBIT A FORM OF CALL OPTION NOTICE

This **CALL OPTION AGREEMENT** dated as of December 12, 1989 (this "Agreement") entered into by and between **ABB CREDIT FINANS AB**, a corporation organized and existing under the laws of the Kingdom of Sweden (the "Call Optiongrantor"), and **OXY PETROCHEMICALS INC.**, a corporation organized and existing under the laws of Delaware (the "Call Optionholder").

W I T N E S S E T H :

WHEREAS, Call Optiongrantor is acquiring each Item of Equipment pursuant to the Purchase Documents and the Purchase Documents Assignment;

WHEREAS, pursuant to the Lease, Lessor has agreed to lease the Items of Equipment to the Lessee immediately upon delivery of each Item of Equipment; and

WHEREAS, Call Optiongrantor is willing to grant to Call Optionholder the right to acquire each Item of Equipment, at the end of the Basic Term and subject to the additional terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

SECTION 1. DEFINITIONS; RULES OF INTERPRETATION.

1.1. Capitalized terms used (including the above recitals) but not otherwise defined herein shall have the following respective meanings or, if not defined in this Agreement, the respective meanings ascribed to them in the Lease.

"**Call Option**" means the call option granted to the Call Optionholder pursuant to this Agreement.

"**Call Option Date**" means, subject to Section 2.4, the Basic Lease Termination Date.

"**Call Option Notice**" means that term as it is defined in Section 2.3.

"**Lease**" means that certain Lease Agreement dated as of December 12, 1898 between Call Optiongrantor, as Lessor, and Call Optionholder, as Lessee.

"**Option Price**" means the price payable by or on behalf of the Call Optionholder pursuant to this Agreement in the event that the Call Option is exercised.

1.2. Except as otherwise expressly provided in this Agreement, the following rules shall apply hereto:

(a) the singular includes the plural and the plural includes the singular;

(b) "or" is not exclusive and "include" and "including" are not limiting;

(c) a reference to any agreement or other contract includes permitted supplements and amendments;

(d) a reference to a law includes any amendment or modification to such law and rules or regulations issued thereunder;

(e) a reference to a Person includes its permitted successors and assigns in the applicable capacity;

(f) a reference in this Agreement to an Article, Section, Exhibit or Schedule is to the Article, Section, Exhibit or Schedule of this Agreement unless otherwise expressly provided;

(g) words such as "hereunder", "hereto", "hereof" and "herein" and other words of like import shall, unless the context clearly indicates to the contrary, refer to the whole of this Agreement and not to any particular Article, Section, subsection or clause hereof;

(h) all obligations under this Agreement are continuing obligations throughout the term of this Agreement;

(i) any right in this Agreement may be exercised at any time and from time to time;

(j) the headings of the Articles, Sections and subsections are for convenience and shall not affect the meaning of this Agreement; and

(k) time is of the essence in performing all obligations.

SECTION 2. CALL OPTION.

2.1. Call Optiongrantor grants to Call Optionholder an irrevocable option to purchase all (but not less than all) of the Items of Equipment leased to the Lessee under the Lease, on the Call Option Date and on the additional terms set out in this Agreement.

2.2. The Call Option may be exercised to take effect on the Call Option Date; provided, however, that the Call Option shall expire on the Call Option Date. If any date set out as the Call Option Date is not a Banking Day, the Call Option Date shall be the immediately succeeding Banking Day.

2.3. If Call Optionholder wishes to exercise the Call Option, it shall give Call Optiongrantor (with a copy to any bank designated pursuant to Section 4.5.2 of the Lease) written notice thereof, in substantially the form of Exhibit A hereto (the "Call Option Notice"), not earlier than 90 days prior to the Call Option Date nor later than the Call Option Date. Notice of exercise of the Call Option, once given, shall be irrevocable.

2.4. Notwithstanding the foregoing, if the Lessor shall be required to but shall fail to give its notice to Lessee pursuant to Section 2.5 of the Lease, the Call Option may be exercised during the Extended Term, in the manner specified in Section 2.3 hereof, to take effect on a Call Option Date not later than the date which is thirty (30) days after such notice of Lessor is given.

SECTION 3. OPTION PRICE AND PAYMENTS.

3.1. The Option Price is (i) 60% of the Lessor's Cost (Sterling) of all Items of Equipment to be purchased pursuant to this Agreement (as adjusted pursuant to the proviso below) plus (ii) interest, if any, on the amount specified in clause (i) above (as so adjusted) accrued from the immediately preceding Payment Date to the Call Option Date at the rate of 12.5% per annum; provided, however, that the Option Price shall be adjusted by applying (on the date paid) any amount of Basic Rent paid subsequent to the Basic Lease Termination Date first to the amount payable pursuant to clause (ii) above and second to the amount payable pursuant to clause (i) above. The Option Price shall be payable in Sterling or by assuming, pursuant to the terms of the Loan Agreement, all the obligations of Call Optiongrantor as Borrower under the Loan Agreement (except as may be otherwise contemplated by the Loan Agreement and subject to the limitations on recourse set forth in Clause 4.2 thereof).

3.2. All payments to be made by or on behalf of Call Optionholder under this Agreement shall be made in full, without any set-off or counterclaim whatsoever, for value on the Call Option Date.

3.3. All payments to be made to the Call Optiongrantor under this Agreement shall be paid as directed in writing by Call Optiongrantor.

3.4. Call Optionholder shall pay to Call Optiongrantor on demand all reasonable expenses (including legal and similar charges, but excluding Taxes (the payment of which is covered exclusively by Section 21 of the Lease), if any) incurred by Call Optiongrantor in connection with the exercise of the Call Option. All such expenses shall be payable in Dollars.

SECTION 4. DELIVERY OF THE EQUIPMENT.

4.1. On the Call Option Date, the Items of Equipment purchased shall at Call Optionholder's risk and expense be delivered by Call Optiongrantor to Call Optionholder at such location as the Call Optionholder and the Call Optiongrantor shall agree to in writing. In the absence of such agreement, delivery shall take place at the location(s) at which the Items of Equipment purchased are situated on the Call Option Date.

4.2. Upon payment by or on behalf of Call Optionholder to Call Optiongrantor of the Option Price, together with any expenses payable pursuant to Section 3.4, on the Call Option Date, all of Call Optiongrantor's right, title and interest in and to the purchased Items of Equipment and in and to the Purchase Documents Assignment to the extent related thereto shall automatically and without further act vest in Call Optionholder or its permitted assigns, to the extent such rights are in their nature assignable, and the Equipment shall be released to Call Optionholder in accordance with the Transfer Protocol; **provided** that such vesting in Call Optionholder of all Call Optiongrantor's right, title and interest as aforesaid shall not be deemed to impose on Call Optiongrantor an obligation to deliver to Call Optionholder possession of the Items of Equipment purchased if such Items of Equipment shall not be in the possession of Call Optiongrantor on such date or be deemed to release Lessee from any obligations under the Lease.

4.3. Call Optiongrantor shall at the time its right, title and interest pass to Call Optionholder as set forth in Section 4.2, (i) deliver to Call Optionholder such other documents of transfer of title as the Call Optionholder may reasonably request and in a form which may be filed with the I.C.C. and (ii) use its best efforts to assist Call

Optionholder to obtain any further consent or waiver that may be required from any third party in order to make the aforementioned transfer fully effective in accordance with the terms of this Agreement.

4.4. The parties hereto agree that the failure of title to the Items of Equipment to vest in Call Optionholder or its permitted assigns when provided for herein cannot be compensated in damages and, therefore, will give rise to an action for specific performance.

SECTION 5. NOTICES.

Unless otherwise specifically provided herein, all notices, requests, demands or other communications required or permitted under the terms and provisions hereof shall be in writing and any such notice, request, demand or other communication shall become effective in accordance with Section 23.2 of the Lease.

SECTION 6. ASSIGNABILITY.

This Agreement shall be binding upon and inure to the benefit of Call Optiongrantor and Call Optionholder. Call Optiongrantor may assign its respective rights and transfer its respective obligations hereunder (i) to Lender pursuant to the Pledge Agreement dated as of December 12, 1989 between Call Optiongrantor and Lender and (ii) in connection with a Disposition pursuant to Section 13.1 of the Lease to the same transferee to which the Disposition is made, but otherwise only with the prior written consent of Call Optionholder. The interest of Call Optiongrantor under this Agreement may be assigned or transferred only by the recording of the name of the assignee or transferee in a document maintained by the Call Optionholder for that purpose. Call Optionholder hereby agrees to maintain such a document for such purpose and to record any assignment or transfer permitted by this Section 6. Call Optionholder may not without the prior written consent of Call Optiongrantor assign or transfer any of its rights or obligations hereunder to a third party; provided that Call Optionholder may, with prior written notice to Call Optiongrantor, assign its rights hereunder to any Person to which the rights of Lessee under the Lease are assigned in accordance with Section 13.3 of the Lease, and nothing in this Agreement shall be construed to affect any agreements (with respect to further assignment or otherwise) made between Call Optionholder and any assignee of Call Optionholder's rights hereunder with respect to such assigned rights.

SECTION 7. MISCELLANEOUS.

7.1. Late Payments. Call Optionholder shall pay interest on any amount of the Option Price and on any other amounts payable by it under this Agreement not paid when due from and after the due date to and including the date paid at the Overdue Rate. All amounts of interest shall be payable in the currency in which the underlying obligation is payable.

7.2. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.3. Amendments. The provisions of this Agreement may be modified or amended only by an instrument or instruments in writing signed by each of the parties hereto.

7.4. Currency. This is an international transaction in which the specification of the currency of payments is of the essence. No payments or advances required to be made under this Agreement shall be discharged by payments or advances in any currency other than the designated currency of such payments or advances, whether pursuant to a judgment or otherwise, to the extent that the amount so paid or advanced on prompt conversion to the designated currency (as quoted in London) does not yield the amount of the designated currency to be paid or advanced hereunder. In the event that any payment or advance made by a party hereunder, whether pursuant to a judgment or otherwise, does not, when converted, result in the correct amount of the designated currency required to be paid or advanced hereunder, the other party shall have a separate cause of action for the amount of any such shortfall.

7.5. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, and all of which shall constitute one and the same instrument.

7.6. Costs. Subject to Section 3.4, each party shall pay all costs and out-of-pocket expenses, including but not limited to legal fees of the other party arising in connection with the enforcement and preservation by the other party of its rights under this Agreement. All such costs and expenses shall be payable in the currency in which incurred.

7.7. Language of Documents. All documents or notices to be delivered pursuant to, or in connection with,

this Agreement shall be in the English language. If any such document or notice is not in the English language, it shall be accompanied by a certified English translation thereof that shall control.

7.8. Complete Agreement. This Agreement, together with the other Operative Documents, constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes any prior agreements with respect thereto.

7.9. Waivers; Remedies Cumulative. No failure to exercise or enforce and no delay in exercising or enforcing, on the part of Call Optiongrantor or Call Optionholder or either of them, any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any such right, remedy, power or privilege preclude any further exercise thereof, or the exercise of any other right, remedy, power or privilege hereunder or otherwise. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by applicable law.

SECTION 8. GOVERNING LAW AND ARBITRATION.

This Agreement shall be governed by and construed in all respects in accordance with the laws of the Kingdom of Sweden. Any dispute arising in connection with this Agreement shall be finally settled in accordance with the Arbitration Procedure.

INTENDING TO BE LEGALLY BOUND, the parties hereto have caused this Call Option Agreement to be duly executed as of the date first written above.

ABB CREDIT FINANS AB

By: 

Name: Goran Carlsson
Title: President

By: 

Name: Christer Bois
Title: Legal Counsel

OXY PETROCHEMICALS INC.

By: _____

Name: R. B. Casriel
Title: Vice President and
Treasurer

[SIGNATURE PAGE]

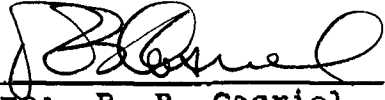
INTENDING TO BE LEGALLY BOUND, the parties hereto have caused this Call Option Agreement to be duly executed as of the date first written above.

ABB CREDIT FINANS AB

By: _____
Name: Goran Carlsson
Title: President

By: _____
Name: Christer Bois
Title: Legal Counsel

OXY PETROCHEMICALS INC.

By:  _____
Name: R. B. Casriel
Title: Vice President and
Treasurer

[SIGNATURE PAGE]

State of New York)
) ss
County of New York)

On this 15TH day of December, 1989, before me personally appeared Goran Carlsson to me personally known, who being by me duly sworn, says that he is the President of ABB CREDIT FINANS AB, as Call Optiongrantor under such instrument, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.

KATHLEEN E. HEKIN
NOTARY PUBLIC, State of New York
No 01 HE4891424
Qualified in Putnam County
Commission Expires 5/4/91

Kathleen E. Heekin
Notary Public

My Commission Expires: 5/4/91

[SEAL]

State of New York)
) ss
County of New York)

On this 14TH day of December, 1989, before me personally appeared Christer Bois to me personally known, who being by me duly sworn, says that he is the Legal Counsel of ABB CREDIT FINANS AB, as Call Optiongrantor under such instrument, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.

Anna K. Weisz
Notary Public

ANNA K. WEISZ
Notary Public, State of New York
No. 03-4211565

My Commission Expires: _____

Qualified in Bronx County
Certificate Filed in New York
County Clerk's Office
Commission Expires November 30, 1991
[SEAL]

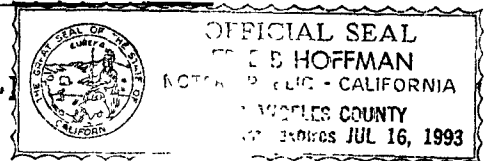
State of California)
) ss
County of Los Angeles)

On this 12th day of December, 1989, before me personally appeared R.B. Casriel to me personally known, who being by me duly sworn, says that he is the Vice President and Treasurer of OXY PETROCHEMICALS INC., as Call Optionholder under such instrument, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

My Commission Expires: July 16, 1993

[SEAL]



**Exhibit A to
Call Option Agreement**

FORM OF CALL OPTION NOTICE

Dated _____, 1999

[CALL OPTIONHOLDER] (the "Call Optionholder"), under that certain Call Option Agreement dated as of December 12, 1989 (the "Agreement") with ABB CREDIT FINANS AB (the "Call Optiongrantor"), hereby notifies Call Optiongrantor, in accordance with Section 2.3 of the Agreement, that it is exercising the Call Option with respect to the Items of Equipment set forth below (which constitute all Items of Equipment subject to the Lease), effective on [insert date]¹ (the "Call Option Date"), and at the Call Option Price set forth in the Agreement, i.e. [specify the Option Price]. Capitalized terms used herein without definition shall have the respective meanings defined or referred to in the Agreement.

Item of Equipment

[CALL OPTIONHOLDER]

By: _____
Name:
Title:

1

Such date shall be the Basic Lease Termination Date or such other date as may be applicable under Section 2.4 of the Agreement.